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**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

MARK IV INDUSTRIES CORP

Plaintiff,

v.

TRANSCORE, L.P., et al.,

Defendant.

Civil Action No. 09-418-GMS

ECF CASE

ELECTRONICALLY FILED

**DECLARATION OF BENJAMIN HAN IN SUPPORT OF MARK IV'S RESPONSE TO
TRANSCORE'S MOTION TO DISMISS**

I, Benjamin Han, declare as follows:

1. I am an attorney admitted to practice in the State of New York and am admitted in federal court before the bars of the Eastern and Southern Districts of New York. I am an associate of the law firm Darby & Darby P.C., counsel for Mark IV Industries Corp (“Mark IV”) in the above-captioned action.

2. I have personal knowledge of the information provided in this declaration, and, if called as a witness, I could and would testify competently.

3. I submit this declaration in support of Mark IV’s Response to Defendant TransCore, L.P.’s (“TransCore”) Motion to Dismiss.

4. Attached as Exhibit A is a true and correct copy of a 2001 Settlement Agreement (“the Settlement Agreement”) entered into between TransCore entities and Mark IV in settling two actions litigated in the U.S. District Court for the Southern District of California.


5. Attached as Exhibit B is a true and correct copy of a May 20, 2009 letter from Mr. Christopher F. Murray of Mark IV to Mr. John Worthington of TransCore invoking the 2001 Settlement Agreement and providing notice to TransCore that it was infringing three of Mark IV’s patents.

6. Attached as Exhibit C is a true and correct copy of a June 8, 2009 electronic mail from Trevor Arnold, TransCore’s counsel, advising that TransCore had been in contact with Mr. Piazza prior to the June 5, 2009 teleconference and that TransCore believed that both parties had met their obligations under Section 23 of the Settlement Agreement.

7. Attached as Exhibit D is a true and correct copy of a June 8, 2009 electronic mail from Pierre R. Yanney, counsel for Mark IV, responding to Trevor Arnold's June 8, 2009 electronic mail agreeing that the parties had met their obligations under Section 23 of the Settlement Agreement.

8. Attached as Exhibit E is a true and correct copy of Form 18 of the Federal Rules of Civil Procedure – "Complaint for Patent Infringement" as obtained from the U.S. Courts website.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed at New York, New York, this 16th day of July, 2009.



Benjamin Han